

PT 03-11

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

v.

**SELF HELP VILLAGE CRAFTS, INC.
D/b/a TEN THOUSAND VILLAGES
Applicant**

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**Docket No. 02-PT-0018
PIN 42-20-12-430-013
Tax Year 2001**

RECOMMENDATION FOR DISPOSITION

Appearances: Kent Steinkamp, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; Milton Otto for Self Help Village Crafts, Inc., d/b/a Ten Thousand Villages.

Synopsis:

This case concerns whether property that is located in Champaign County and owned by Self Help Village Crafts, Inc. d/b/a Ten Thousand Villages (“applicant”) qualifies for a property tax exemption for the year 2001. The applicant is an organization that sells merchandise that is made by artisans from third-world countries. The applicant alleges that its property qualifies for an exemption on the basis that it is used exclusively for religious or charitable purposes. The Department of Revenue (“Department”) denied the exemption, the applicant timely protested the denial, and an evidentiary hearing was

held. After reviewing the record, it is recommended that this matter be resolved in favor of the Department.

FINDINGS OF FACT:

1. The applicant is a not-for-profit corporation that was incorporated in Illinois, and on December 31, 1998, the applicant acquired property located at 105 N. Walnut in Champaign, Illinois (“the property”). (Dept. Ex. #1, pp. 6-7, 11-12; Tr. p. 8)

2. A two-story building is located on the property. The building also has a basement. The building is approximately 1600 square feet.¹ The second floor of the building is an apartment that the applicant leases to an unrelated party. During 2001, the applicant received \$720 per month for rent from the lessee. (Dept. Ex. #1, pp. 4, 22-25)

3. The applicant uses the first floor of the building to display and sell items that it receives from third-world countries. The first floor also has offices for the applicant. The basement is primarily used for storage for the items that are sold. (Tr. pp. 9-10)

4. The types of items that the applicant sells include vases, bowls, woven items, napkins, tablecloths, clothes, and wooden figurines. (Tr. p. 22)

5. The applicant’s bylaws state that the applicant’s purpose is to sell “merchandise, substantially all of which has been received by the corporation as gifts or which has been handcrafted in third-world countries.” The bylaws further state that “The primary purpose of the corporation is to support the world-wide relief and development programs of the Mennonite Central Committee.” (Dept. Ex. #1, p. 14)

6. The Mennonite Central Committee (“MCC”) is a non-profit corporation that includes the North American Mennonite Church and the Church of the Brethren. The MCC has three goals: (1) to help people who are disadvantaged by either poverty,

political oppression, or natural disaster; (2) to promote peace, justice, and equality through Christian example; and (3) to create relationships so that disadvantaged people may be able to work and have a sense of dignity in their lives. The applicant assists with the third goal. (Tr. pp. 11-12)

7. The applicant purchases from the MCC the items that it sells at its store. When the MCC acquires the items from the artisans, it pays them half of the selling price of the items and later pays the remaining amount owed. The applicant uses the proceeds from its sales of the handicrafts to purchase more items and to operate the store. (Dept. Ex. #1, p. 30; Tr. pp. 11-13)

8. The artisans that the MCC acquires items from are people of all backgrounds and religions. (Tr. p. 28)

9. The applicant does not have any capital stock or stockholders. (Dept. Ex. #1, p. 13; Tr. p. 13)

10. For the fiscal year beginning on July 1, 2000 and ending on June 30, 2001, the applicant's income and expenses were as follows:

Income:

Sales Store	\$219,844.58
Sales Spec Events	10,620.83
Interest Income	657.69
Cash Donations	500.00
Apartment Rent Income	8,580.00
Total Income:	\$240,203.10

Expenses:

Cost of Goods Sold	\$134,785.50
Wages	27,471.04
FICA Employer's Share	2,101.54

¹ It is unclear from the record whether the square footage includes the basement. (Tr. p. 16)

Telephone	1,242.02
Management Expenses	4,528.16
Visa/MC Charge	3,872.84
Advertising	13,289.02
NSF Checks	272.60
Rent	500.00
Utilities	5,049.82
Trash Removal	340.00
Interest Exp.—Building	4,430.86
Insurance	2,226.61
Maintenance/Display	921.34
Maintenance/Building	1,521.29
Misc. Contribution	1,398.75
Real Estate Taxes	2,757.89
Depreciation—Equipment	645.60
Depreciation—Lease-Hold	151.56
Depreciation—Building	2,800.00
Total Expenses:	\$210,306.44
Net Income:	\$29,896.66

11. The applicant's Board of Directors consists of eight members, all of whom are volunteers. The members are nominated as follows: two by the East Bend Mennonite Church; two by the Dewey Mennonite Church; two by the First Mennonite Church of Champaign-Urbana; and two by the Arthur Area Mennonite Churches. (Dept. Ex. #1, p. 15; Tr. p. 13)

12. The store's staff consists of approximately 150 volunteers who work in the store. There is also one full-time manager who earns \$22,500 and two part-time managers who earn \$10 an hour. (Tr. p. 14)

13. The applicant does not conduct any religious services or Sunday school programs on its premises. (Tr. p. 17)

CONCLUSIONS OF LAW:

The applicant has requested a religious exemption from the property tax pursuant to section 15-40 of the Property Tax Code, which provides in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, * * *. 35 ILCS 200/15-40.

In determining whether property is exempt under this provision, the primary use of the property, rather than its incidental use, must be considered. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59, 65-66 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11, 16 (1924). In order to qualify for the exemption, the property must actually be used for the exempting purpose. Illinois Institute of Technology at 64. Intention to use is not the same as actual use. Id.

The provision of the Property Tax Code that allows exemptions for charitable purposes provides in relevant part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) institutions of public charity. 35 ILCS 200/15-65(a)

In deciding whether the applicant actually and exclusively uses the property for charitable purposes, the following four factors are considered:

1. Whether the benefits derived are for an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare or in some way reducing the burdens of government;
2. Whether the organization has no capital, capital stock or shareholders and earns no profits or dividends but rather derives its funds mainly from public and private charity and holds them in trust for the objects and purposes expressed in its charter;
3. Whether the organization dispenses charity to all who need and apply for it, does not provide gain or profit in a private sense to any person

connected with it, and does not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses; and

4. Whether the exclusive (primary) use of its property is for charitable purposes.

Methodist Old Peoples Home v. Korzen, 39 Ill.2d 139, 156-57 (1968). These factors are not requirements but are guidelines to be considered in assessing an institution's charitable status. DuPage County Board of Review v. Joint Commission on Accreditation of Healthcare Organizations, 274 Ill.App.3d 461, 468 (2nd Dist. 1995)

It is well-established that property tax exemption provisions are strictly construed in favor of taxation. Chicago Patrolmen's Association v. Department of Revenue, 171 Ill.2d 263, 271 (1996). The party claiming the exemption has the burden of clearly proving that it is entitled to the exemption, and all doubts are resolved in favor of taxation. Id.; City of Chicago v. Department of Revenue, 147 Ill.2d 484, 491 (1992).

The Department argues that the applicant engages in neither charitable nor religious activities. The Department contends that religious activities that have been found to fall within the exemption include worship, religious education, or children's religious formation programs. The applicant does not engage in any of these activities. The Department also states that the applicant's activities are not charitable because the applicant is a commercial enterprise. There was no evidence indicating that the people who are aided are needy or would not otherwise be able to sell their crafts. There was also no evidence concerning the pricing of the items. The Department believes that the applicant has not met its burden of proving its entitlement to an exemption.

The applicant contends that it is not necessary to prove that each person that the charitable organization assists is actually needy. The applicant argues that the purpose of

the store is to provide a fair wage to third-world people who would otherwise not have access to wages. The applicant does not profit from its operations, and its benefits are available to everyone from all religious denominations. The applicant states that its property is used in a nonprofit manner that fulfills the mission of the Mennonite Church. The applicant believes that the facts of this case are similar to those in First Presbyterian Church of Dixon v. Zehnder, 306 Ill.App.3d 1114 (2nd Dist. 1999), where the court found that property used to distribute and sell donated items was exempt.

The facts in First Presbyterian are distinguishable from the present case. The items in that case were donated and were given away free to individuals who could not pay for them. The property was used to distribute food to the indigent, Christmas food and toys to the needy, and clothing and furniture to those unable to pay for such items. First Presbyterian at 1117. In the present case, none of the items are donated. The artisans expect fair compensation for all of their crafts. Also, none of the items are given free to the needy.

The applicant's purpose is to help artisans from third-world countries earn money, and its operations do not fall within the guidelines used for determining whether property is used for charitable purposes. The applicant does not dispense charity to all who need and apply for it; its benefits are limited to craftsmen from third-world countries. People who are not craftsmen do not receive any benefit from the applicant; if a person does not have the skill to create handicrafts, the applicant does not assist that person in any way. In addition, the goal of the applicant is to ensure that each artisan profits from the sale of his or her item. Although it is admirable to assist disadvantaged people in this way, the profit-making aspect of this goal renders the purpose non-charitable. The applicant

operates a commercial enterprise by selling items on behalf of another person or group in order to make a profit. In addition, the applicant uses the second floor of the building solely for the purpose of renting it at fair-market-value to an unrelated party. The use of the applicant's property, therefore, is not charitable.

In addition, the primary use of the property is not religious. The applicant does not conduct public religious services, Sunday school, or other public religious instruction. See People ex rel. McCullough v. Deutsche Evangelisch Lutherische Jehovah Gemeinde, 249 Ill. 132 (1911) (exempt use includes use by a religious society or body of persons as a stated place for public worship, Sunday schools, and religious instruction). The property is also not used to produce religious material. See Inter-Varsity Christian Fellowship of the U.S. v. Hoffman, 62 Ill.App.3d 798 (2nd Dist. 1978) (property used to publish religious books and literature was used for religious purposes). There is no spiritual or religious component to the activities that are conducted on the property. The use of the property does not entitle it to the religious exemption.

Recommendation:

For the foregoing reasons, it is recommended that the applicant's property does not qualify for the religious or charitable tax exemption for the year 2001.

Linda Olivero
Administrative Law Judge

Enter: April 7, 2003